IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO: 24603 of 1996

Between:

C.Chengal Reddy S/o. C.Thimma Reddy
Girijan Cooperative Plantations Development Corporation Limited, Maredumilli,
East Godavari Dist

..... PETITIONER

AND

1 The Principal Secretary Government of Andhra Pradesh
Social Welfare (Tribal Welfare) Department Secretariat, Hyderabad
2 The Board of Directors
Girijan Cooperative Plantations Development Corporation Limited
Visakhapatnam Visakhapatnam Dist
3 The Vice Chairman and Managing Director
Girijan Cooperative Plantations Development Corporation Limited
Visakhapatnam Visakhapatnam Dist

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction one preferably in the nature of writ of mandamus declaring the proceedings Rc.No.20/92/GC-4, Dt.4/10/1994 issued by the Vice Chairman and Managing Director, Girijan Cooperative Plantations Development Corporation Limited, Visakhapatnam Visakhapatnam District 3rd respondent herein as confirmed by the Board of Directors, Girijan Cooperative Plantations Development Corporation Limited, Visakhapatnam Visakhapatnam District 2nd respondent herein communicated to the petitioner herein by the 3rd respondent in his proceedings Rc.No.60/94/A-1, Dt.10/05/1996 as illegal, arbitrary and void and violative of Art.14,21 and 300-A of Constitution of India and pass such other order.

Counsel for the Petitioner: MR.A.V.SESHA SAI

Counsel for the Respondents: MR.G.JAYAPRAKASH BABU

The Court made the following:

O R D E R:

Heard both sides.

The petitioner who has been working as an Estate Manager with the respondent-Corporation filed this writ petition, *inter alia,* seeking a writ of Mandamus challenging the order dated 04-10-1994 passed by the third respondent, whereunder it was ordered for recovery of a sum of Rs.44,982/- in 45 instalments at the rate of Rs.1,000/- per month from 1 to 44 instalments and Rs.982/- in the 45th instalment from his salary with effect from October, 1994.

The case of the petitioner is that he was initially appointed as an Estate Manager in 1976 and is presently working as such at Maredumilli, East Godavari District. On 28-07-1994, while he was working as Estate Manager at Paderu, a memo was issued to him complaining that he is liable for shortage of polythene bags and he submitted various explanations denying his liability. Further, he also pointed out various reasons in support of his case. Thereupon, the impugned order dated 04-10-1994 came to be passed. Against the said order, the petitioner filed an appeal before the second respondent and the same was rejected on 22-04-1996, which was communicated to him by the third respondent on 10-05-1996. According to the petitioner, he sought personal hearing in the matter.

The learned counsel for the petitioner submits that the entire proceedings have been initiated only after the petitioner was transferred, basing on the report of the succeeding officer. Further, in spite of his explanation, no enquiry was conducted in the presence of the petitioner and nothing had been proved against him by proper notice nor he was permitted to rebut the same by adducing material evidence in support thereof. Therefore, the impugned order is against the principles of natural justice and requires to be set aside.

The learned counsel appearing for the respondents sought to sustain the impugned order stating that as an Estate Manager, the petitioner should not give any scope for shortage of polythene bags and therefore, the petitioner is liable for such shortage.

Having considered the submissions made on either side and on perusal of the material on record, the question that falls for consideration is whether the impugned order imposing liability against the petitioner towards shortage of polythene bags is valid.

There is no dispute of the fact that the petitioner has been working as an Estate Manager at various places including at Paderu. On the basis of the report of the succeeding officer at Paderu, a memo was issued to the petitioner as regards shortage of bags on 28-07-1994. To the same, the petitioner submitted various explanations. Admittedly, no enquiry was conducted nor any opportunity of hearing was given to the petitioner and ultimately, the impugned order dated 04-10-1994 was passed and the same was also confirmed in appeal. The entire allegation sought to be made against the petitioner is that he is responsible for shortage of polythene bags when he worked as Estate Manager at Paderu. There is a serious dispute as to how many bags would come in one KG and the petitioner has also given his explanation. In spite of the same, no evidence has been produced by the respondents to substantiate the allegation giving opportunity to the petitioner to cross examine nor there is any opportunity for the petitioner to rebut the same by proper evidence. Therefore, there is a clear violation of principles of natural justice. It is to be noted that when a person is being imposed with some liability, the same cannot be taken recourse to without such allegations being properly proved by evidence with proper opportunity to the affected person to rebut the same.

In the circumstances, the impugned proceedings are vitiated and are liable to be set aside.

Accordingly, both the orders dated 04-10-1994 and 10-05-1996 are hereby set aside and the writ petition is allowed. The matter is

remitted back to the respondents for fresh enquiry and disposal in accordance with law after giving notice and opportunity to both sides. No costs.

_____

(**B. PRAKASH RAO, J**)

Date: 25-11-2004

ghn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the twenty fifth day of November, Two thousand and Four.

To

1 The Principal Secretary Government of Andhra Pradesh
Social Welfare (Tribal Welfare) Department Secretariat, Hyderabad

2 The Board of Directors,
Girijan Cooperative Plantations Development Corporation Limited,
Visakhapatnam, Visakhapatnam Dist
3 The Vice Chairman and Managing Director,
Girijan Cooperative Plantations Development Corporation Limited,
Visakhapatnam, Visakhapatnam Dist.

4 Two C.D. Copies.